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### REMARKS

Claims 1-23 were pending in the present Application. No claims have been cancelled, amended, or added, leaving Claims 1-23 for consideration upon entry of the present Amendment.

Filed concurrently herewith is a declaration filed under 37 USC 1.131 swearing behind the filing and issuance of U.S. Patent Application Publication No. 2004/0038251 to Smalley et al.

Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

#### Claim Rejections

Claims 1-4, 9, 10, 19, and 20 stand rejected under 35 U.S.C. § 102(a or e) as allegedly anticipated by US Patent Publication No. 2004/0038251 to Smalley et al. (hereinafter "Smalley").

Furthermore, Claims 5-8, 11-18 and 21-23 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Smalley in view of US Patent No. 6,187,823 to Haddon et al. (hereinafter "Haddon"). The Applicant respectfully traverses these rejections.

Smalley was filed on March 4, 2003, and claims the benefit of three Provisional Patent Applications, the earliest priority date of which is March 4, 2002. The Applicant conceived and reduced to practice his invention sometime prior to March 4, 2002. Filed concurrently herewith is a Declaration submitted under 37 USC § 1.131 declaring and stating that the invention was conceived of in the United States and reduced to practice in the United States sometime prior to March 4, 2002. Evidence supporting conception and reduction to practice is provided with the Declaration.

Accordingly, the Applicant hereby requests withdrawal of the rejections applied to the claims under 35 U.S.C. §102(a or e) and 35 U.S.C. §103(a), which are based at least in part on Smalley.


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It is believed that the foregoing remarks and Declaration filed concurrently herewith fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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